

### **REMARKS**

In response to the Office Action of January 29, 2008, please reconsider the present application in view of the above amendments and the following remarks. Attached hereto are the following additional document(s): one (1) replacement drawing sheet for FIG. 5. Applicant thanks the Examiner for carefully considering the application.

#### **Status of Claims**

Before entry of this Amendment, claims 1-26 were, and remain pending. Claims 1 and 8 are independent.

Claim 2 is objected to for informalities. Claims 1, 5, 8, 9 and 17 are rejected under 35 U.S.C. 102(e) as being unpatentable over U.S. Patent No. 6,177,931 ("Alexander"). Claims 2-4, 10-13, 16 and 22-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Alexander in view of U.S. Patent Application Pub. No.2005/0235318 ("Grauch"). Claims 6, 7, 14, 15 and 18-21 are rejected 35 U.S.C. 103(a) as being unpatentable over Alexander in view of U.S. Patent No. 6,981,040 ("Konig").

#### **Drawing Objections**

It is asserted in the Office Action that FIG. 5 is objected to for incorrectly showing a transition matrix. Applicant submits a replacement sheet for FIG. 5 to overcome the drawing objection. In particular, Applicant has corrected FIG. 5 to show the correct matrix transition of "on" to "5" to "2," etc. No new matter is added. Approval is respectfully requested.

### **Claim Objections**

Claim 2 is objected to for minor informalities. By way of this reply, claim 2 has been responsively amended.

Accordingly, withdrawal of the objection to claim 2 is respectfully requested.

### **Claim Amendments**

Claims 1 and 8 are amended for clarification of the claimed embodiments. Claim 2 has been amended to correct minor informalities. No new matter has been added by way of these amendments.

### **Rejections under 35 U.S.C. 102(e)**

Rejections of claims 1, 5, 8, 9 and 17 are respectfully traversed because for at least the following reasons, Alexander does not disclose all of the claimed limitations.

According to MPEP §2131,

'[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.' (Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987)). 'The identical invention must be shown in as complete detail as is contained in the ... claim.' (Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989)). The elements must be arranged as required by the claim, but this is not an ipsissimis verbis test, *i.e.*, identity of terminology is not required. (In re Bond, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990)).

Alexander discloses presenting a viewer with an EPG based on "statistics collected about a particular viewer." (Alexander, column 30, lines 47-51). That is, Alexander relates to

personalized presentations based on a particular viewer. Distinguishable, Applicant's claimed invention relates to predicting likes for a demographic group or class, not an individual (*see e.g.*, Applicant's specification, paragraph [0107]: "likes predictors for all demographic groups, i.e., for a group *instead of an individual person*. The difference between a person and a group is that the determination engine has to pick up the programs which will *please a majority of the people in a demographic group for a particular time*," emphasis added).

Alexander does not teach, disclose or suggest Applicant's amended claim 1 limitations of "from a server-side system, inputting historical data information regarding demographic information tagged to the *viewer for the viewer's demographic group*; inputting *preferred* program guide information *for the demographic group*; and at a client-side system, associating the program guide information with the viewer's monitor behavior and defining therefrom a knowledge base with demographic *group* cluster information of the viewer in terms of statistical state machine transition models" (emphasis added), nor amended claim 8 limitations of:

capturing state transitions by defining monitor behavior in a plurality of statistical state machine families *each representing viewing behavior of a particular demographic group*; at a client-side system, combining the statistical state machine families into global statistical state machines defined in a global probability density function; updating and reinforcing the global probability density function upon determining that a given probability function has a higher confidence level than a previous probability density function; and outputting a global profile based on the global probability density function, wherein *the global profile is suitable for determining programming content of a television server for classes of viewers*. (emphasis added)

Additionally, distinguishable from Alexander, Applicant's amended claim 1 requires that a server performs "*inputting historical data information regarding demographic information*

*tagged to the viewer for the viewer's demographic group;*" and *"inputting preferred program guide information for the demographic group;"* and that the client performs *"associating the program guide information with the viewer's monitor behavior* and defining therefrom *a knowledge base with demographic group* cluster information of the viewer in terms of statistical state machine transition models" (emphasis added); and Applicant's amended claim 8 requires a client to perform *"combining the statistical state machine families into global statistical state machines defined in a global probability density function;* updating and reinforcing the global probability density function upon determining that a given probability function has a higher confidence level than a previous probability density function;" and that a server perform *"outputting a global profile based on the global probability density function, wherein the global profile is suitable for determining programming content of a television server for classes of viewers"* (emphasis added).

In view of the above, Alexander fails to disclose all of the limitations of independent claims 1 and 8 of the present application. Therefore, Applicant respectfully asserts that a *prima facie* rejection under 35 U.S.C. § 102(e) has not been adequately set forth relative to Alexander. Thus, independent claims 1 and 8 are patentable over Alexander for at least the reasons set forth above. Dependent claims 5, 9 and 17 are allowable for at least the same reasons.

Accordingly, withdrawal of the rejection of claims 1, 5, 8, 9 and 17 is respectfully requested.

**Rejections under 35 U.S.C. 103(a)**

*Claims 2-4, 10-13, 16 and 22-26*

Rejections of claims 2-4, 10-13, 16 and 22-26 are respectfully traversed because for at least the following reasons, Alexander and Grauch, whether considered separately or in combination, fail to show or suggest the claimed invention.

According to MPEP §2142

[t]he key to supporting any rejection under 35 U.S.C. 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious. The Supreme Court in *KSR International Co. v. Teleflex Inc.*, 550 U.S. \_\_\_, \_\_\_, 82 USPQ2d 1385, 1396 (2007) noted that the analysis supporting a rejection under 35 U.S.C. 103 should be made explicit. The Federal Circuit has stated that ‘rejections on obviousness cannot be sustained with mere conclusory statements; instead there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.’ *In re Kahn*, 441 F.3d 977, 988, 78 USPQ2d 1329, 1336 (Fed. Cir. 2006). See also *KSR*, 550 U.S. at \_\_\_, 82 USPQ2d at 1396 (quoting Federal Circuit statement with approval).

Further, according to MPEP §2143, “[T]he Supreme Court in *KSR International Co. v. Teleflex, Inc.* 550 U.S. \_\_\_, \_\_\_, 82 USPQ2d 1395-1397 (2007) identified a number of rationales to support a conclusion of obviousness which are consistent with the proper “functional approach” to the determination of obviousness as laid down in *Graham*.” And, according to MPEP §2143.01, [o]bviousness can be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so. *In re Kahn*, 441 F.3d 977, 988, 78 USPQ2d 1329, 1335 (Fed. Cir. 2006). Further, “[t]he mere fact that references *can* be combined or modified does not render the resultant combination obvious unless the results would have been predictable to one of ordinary

skill in the art.” *KSR International Co. v. Teleflex, Inc.* 550 U.S. \_\_\_, \_\_\_, 82 USPQ2d 1385, 1396 (2007). Additionally, according to MPEP §2143

[a] statement that modification of the prior art to meet the claimed invention would have been “*well within the ordinary skill of the art* at the time the claimed invention was made” because the references relied upon teach that all aspects of the claimed invention were individually known in the art is not sufficient to establish *prima facie* case of obviousness without some objective reason to combine the teachings of the references. *Ex parte Levengood*, 28 USPQ2d 1300 (Pat. App. & Inter. 1993).

As asserted above, Applicant’s claimed invention relates to predicting likes for a demographic group or class, not an individual. As asserted above, Alexander relates collecting to individual statistics used for individualized presentations.

Grauch is relied on for disclosing determining a viewer’s viewing habits by tracking clickstream data (Office Action, page 6). Grauch, however, does not teach, disclose or suggest collecting the individual data for use in determining demographic preferred programming. Applicant notes that Grauch discloses that the individual collected data can be used for correlation to demographic data, which is different from being used to determine demographic data because correlating data to demographic data does not effect the demographic data, at all. (see Grauch, Abstract). Using information to determine demographic data *does* effect the demographic data.

Therefore, even if the teachings of Alexander are combined with Grauch, the resulting invention would still not teach, disclose or suggest Applicant’s amended claim 1 limitations of

“from a server-side system, inputting historical data information regarding demographic information tagged to the *viewer for the viewer's demographic group*; inputting *preferred program guide information for the demographic group*; and at a client-side system, associating the program guide information with the viewer's monitor behavior and defining therefrom a knowledge base with demographic *group* cluster information of the viewer in terms of statistical state machine transition models,” (emphasis added), nor amended claim 8 limitations of:

capturing state transitions by defining monitor behavior in a plurality of statistical state machine families *each representing viewing behavior of a particular demographic group*; at a client-side system, combining the statistical state machine families into global statistical state machines defined in a global probability density function; updating and reinforcing the global probability density function upon determining that a given probability function has a higher confidence level than a previous probability density function; and outputting a global profile based on the global probability density function, wherein the *global profile is suitable for determining programming content of a television server for classes of viewers*. (emphasis added)

Further, the assertions made in the Office Action on pages 7-11 that lead to a conclusion of obviousness are not explicit and the basic requirements of an articulated rationale under MPEP 2143 cannot be found. Additionally, since neither Alexander, Grauch, and therefore, nor the combination of the two, teach, disclose or suggest all the limitations of Applicant's claims 1 and 8, as listed above, Applicant's claims 1 and 8 are not obvious over Alexander in view of Grauch since a *prima facie* case of obviousness has not been met under MPEP §2142. Thus, claims 1 and 8 of the present application are patentable over Alexander and Grauch for at least the reasons set forth above. Additionally, the claims that directly or indirectly depend on amended claims 1 and 8, namely claims 2- 4 and 22-24, and 10-13, 16 and 25-26, respectively, are also patentable over Alexander and Grauch for the same reasons as asserted above.

Accordingly, withdrawal of the rejections of claims 2-4, 10-13, 16 and 22-26 is respectfully requested.

*Claims 6-7, 14-15 and 18-21*

Rejections of claims 6-7, 14-15 and 18-21 are respectfully traversed because for at least the following reasons, Alexander and Konig, whether considered separately or in combination, fail to show or suggest the claimed invention.

Applicant's dependent claims 6-7 and 18-19 either directly or indirectly depend on amended claim 1. Applicant's dependent claims 14-15 and 20-21 either directly or indirectly depend on amended claim 8. Applicant has addressed Alexander above regarding amended claims 1 and 8.

Konig is relied on for disclosing parameterizing a viewer's monitor behavior with a double random pseudo hidden Markov process (Office Action, page 12).

Therefore, even if the teachings of Konig are combined with Alexander, the resulting invention would still not teach, disclose or suggest Applicant's amended claim 1 limitations of "from a server-side system, inputting historical data information regarding demographic information tagged to the viewer *for the viewer's demographic group*; inputting *preferred* program guide information *for the demographic group*; and at a client-side system, associating the program guide information with the viewer's monitor behavior and defining therefrom a



knowledge base with demographic *group* cluster information of the viewer in terms of statistical state machine transition models,” (emphasis added), nor amended claim 8 limitations of:

capturing state transitions by defining monitor behavior in a plurality of statistical state machine families *each representing viewing behavior of a particular demographic group*; at a client-side system, combining the statistical state machine families into global statistical state machines defined in a global probability density function; updating and reinforcing the global probability density function upon determining that a given probability function has a higher confidence level than a previous probability density function; and outputting a global profile based on the global probability density function, wherein the global profile is suitable for determining programming content of a television server for classes of viewers. (emphasis added)

Further, the assertions made in the Office Action on pages 12-15 that lead to a conclusion of obviousness are not explicit and the basic requirements of an articulated rationale under MPEP 2143 cannot be found. Additionally, since neither Alexander, Konig, and therefore, nor the combination of the two, teach, disclose or suggest all the limitations of Applicant's claims 1 and 8, as listed above, Applicant's claims 1 and 8 are not obvious over Alexander in view of Konig since a *prima facie* case of obviousness has not been met under MPEP §2142. Thus, claims 1 and 8 of the present application are patentable over Alexander and Konig for at least the reasons set forth above. Additionally, the claims that directly or indirectly depend on amended claims 1 and 8, namely claims 6-7 and 18-19, and 14-15, 16 and 20-21, respectively, are also patentable over Alexander and Konig for the same reasons as asserted above.

Accordingly, withdrawal of the rejections of claims 6-7, 14-15 and 18-21 is respectfully requested.

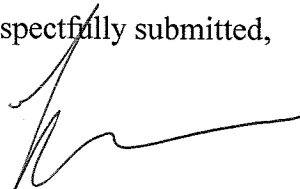
**CONCLUSIONS**

In view of the foregoing amendments and remarks, Applicants believe that the rejected claims are in condition for allowance. Reconsideration, re-examination, and allowance of the rejected claims are respectfully requested. If the Examiner feels that a telephone interview would help with the examination of the present application, the Examiner is encouraged to call the undersigned attorney or his associates at the telephone number listed below.

Please direct all correspondence to **Myers Dawes Andras & Sherman, LLP**, 19900 MacArthur Blvd., Suite 1150, Irvine, California 92612.

Attachment: Replacement drawings sheet for FIG. 5

Respectfully submitted,



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